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Attorneys for Plaintiff  
United States of America

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Criminal Case No. 08CR1908-W
	)	
Plaintiff,	)	Date: July 7, 2008
	)	Time: 2:00 p.m.
v.	)	
	)	GOVERNMENT'S RESPONSE AND
MARCO ROMAN-SERRANO,	)	OPPOSITION TO DEFENDANT'S
	)	MOTIONS TO:
Defendant.	)	
	)	(1) COMPEL DISCOVERY
	)	
	)	
	)	(2) FILE FURTHER MOTIONS.
	)	
	)	TOGETHER WITH STATEMENT OF
	)	FACTS, MEMORANDUM OF POINTS
	)	AND AUTHORITIES.
	)	

COMES NOW, the plaintiff, UNITED STATES OF AMERICA, by and through its counsel KAREN P. HEWITT, United States Attorney, and ALESSANDRA P. SERANO, Assistant U.S. Attorney, and hereby files its Response and Opposition to the motions filed on behalf of defendant MARCO ROMAN-SERRANO("Defendant") which is based upon the files and records of this case.

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**I****STATEMENT OF THE CASE**

On June 11, 2008, a federal grand jury for the Southern District of California returned a single-count Indictment charging Defendant with attempted entry of a deported alien, in violation of 8 U.S.C. §1326(a) and (b).

**II****STATEMENT OF FACTS****A. THE OFFENSE**

On April 6, 2008, at approximately 11:00 a.m., Defendant attempted to walk through primary pedestrian lane number 6 at the San Ysidro Port of Entry with being inspected. Customs and Border Protection Officer Lujan stopped him and asked if he had any documents that allowed him to enter the United States. Defendant said no. He was then escorted to secondary inspection for further inspection.

At secondary inspection, records checks revealed he had been previously deported from the United States and had a criminal history. He was last removed on January 17, 2008.

**B. DEFENDANT'S STATEMENT**

Defendant was advised of his Miranda rights in English by Officer Loperena at approximately 4:50 p.m. The entire interview was recorded on a DVD. Defendant acknowledged those rights and agreed to speak to agents. He was also advised of his right to speak to the Mexican consulate, but declined to speak with the Consulate. In summary, Defendant stated that was a citizen of Mexico with no documents allowing him to enter or remain the United States. He admitted to being previously deported and failed to present himself for inspection on this occasion. He wanted to go to Los Angeles and be with his family.

**C. Defendant's Immigration and Criminal History**

Defendant was previously ordered deported via an order by an immigration judge on 11/30/00 and last removed on 1/17/08 via San Ysidro. Defendant was previously convicted of Robbery in violation of PC §211 on August 4, 1992 and sentenced to three years prison. In April 1999, Defendant was convicted of Commercial Burglary in violation of PC §459 with a prior

felony and sentenced to 32 months in prison. He also was convicted of a few misdemeanor offenses for fraud and sentenced to 3 to days in 2006 and 2008.

### III

#### UNITED STATES' MEMORANDUM OF POINTS AND AUTHORITIES

##### **A. THE MOTION TO COMPEL DISCOVERY SHOULD BE DENIED**

The Government intends to fully comply with its discovery obligations under Brady v. Maryland, 373 U.S. 83 (1963), the Jencks Act (18 U.S.C. § 3500), and Rule 16 of the Federal Rules of Criminal Procedure. The Government anticipates that most discovery issues can be resolved amicably and informally, and has addressed Defendant's specific requests below.

1. The Government has produced a copy of the deportation tape for Defendant's deportation hearing on June 18, 2008.
2. The Government has also produced copies of judgement and conviction documents for his two prior felony offenses on June 24, 2008.
3. The Government has previously produced relevant and discoverable documents from the Defendant's A file. The Government opposed copying the entire A file, but with a court order, the Defendant is free to inspect the relevant portions of the A file.

##### **B. LEAVE TO FILE FURTHER MOTIONS**

The Government does not oppose this motion, as long as future motions are based upon evidence or information not now available.

### III

#### CONCLUSION

For the above stated reasons, the Government respectfully requests that Defendant's motions be denied.

DATED: June 25, 2008.

Respectfully Submitted,  
KAREN P. HEWITT  
United States Attorney

s/Alessandra P. Serano  
ALESSANDRA P. SERANO  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARCO ROMAN-SERRANO,

Defendant.

Case No. 08CR1908-W

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, ALESSANDRA P. SERANO, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of United States' Response and Opposition to Defendant's Motions on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Victor Pippins, Esq.  
Federal Defenders of San Diego, Inc.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 25, 2008.

s/Alessandra P. Serano  
ALESSANDRA P. SERANO